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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DIGGLE et al.

Group Art Unit: 3634

Application No. 10/648,621

Examiner: Alvin C. Chin-Shue

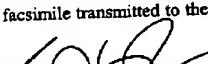
Filed: August 26, 2003

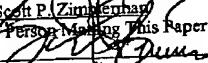
Docket: BS030116

Title: "Torso Harness"

37 C.F.R. § 1.8 CERTIFICATE OF TRANSMISSION

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Scott P. Zimmerman
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37 C.F.R. § 1.143 Request for Reconsideration
of Requirement for Restriction

Mail Stop: Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Commissioner:

This paper is filed in response to the first Office Action, mailed October 28, 2004, in the above-identified application. The United States Patent and Trademark Office ("Office") imposed a restriction requirement. Assignee hereby requests reconsideration and withdrawal of this restriction requirement.

BS030116

U.S. Application No. 10/648,621 Examiner Chin-Shue, Art Unit 3634
Response to Restriction Requirement**PROVISIONAL ELECTION**

The Office alleges that this patent application contains two (2) groups of patentably distinct species. As 37 C.F.R. § 1.143 requires, the Assignee provisionally elects the Group I claims 1-9.

REPLY AND TRAVERSAL

The Assignee respectfully requests reconsideration and withdrawal of this restriction requirement. The Assignee traverses this restriction requirement by relying upon the following reasons.

1. No Burden is Present

Examination of claims 1-11 does not present a burden for the Examiner. One criterion for restriction is that there must be a "serious burden" on the Examiner. See U.S. DEPT. OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 803 (8th Ed. 2001). The Office may make a *prima facie* case for restriction, using "appropriate explanation," of i) separate classification, ii) a separate status in the art, or iii) a different field of search. *Id.* See also *id.* at § 808.02.

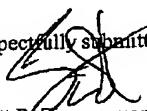
There is no burden for the Examiner. Claims 1-9 and 10-11 are each classified in class 182. While grouped claims 1-9 and 10-11 are admittedly in different subclasses, searching multiple subclasses is routine. Moreover, independent method claim 10 includes all the features recited in claim 1, so there is an identical search for each claim grouping. Most importantly, the Assignee included an Information Disclosure Statement listing the relevant patents in class 182, subclasses 4, 5, and 6. The Examiner, then, should have no burden searching all the claims 1-11. The requirement for restriction is therefore unnecessary. The Assignee thus respectfully requests that Examiner Chin-Shue remove the requirement for restriction and, instead, examine all the pending claims 1-11.

BS030116

U.S. Application No. 10/648,621 Examiner Chin-Shue, Art Unit 3634
Response to Restriction Requirement

If the Office has any questions, the Office is invited to contact the undersigned at (919)
387-6907 or scott@scottzimmerman.com.

Respectfully submitted,


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Attorney for Assignee

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